IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 711 OF 2001

Asuda Kutir Co-operative Housing Society Ltd. & Ors... .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Rafiq Dada, Sr. Counsel with Mr. C.M.Korde, Mr. Milind Jadhav, Mr. J.S.Solomon and Mr.Manish S. Vora i/by M/s.Solomon & Co. for the Petitioners.

Mr. S. K. Nair for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1945 OF 2002

Malcolm F. A. Pereira and Daphe M. T. Pereira.. .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Rafiq Dada, Sr. Counsel with Mr. Wilfred Pereira i/by M/s.Wilfred Pereira for the Petitioners.

Ms. Geeta Shastri, Asstt. Govt. Pleader for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1688 OF 2001

Laxmi Woollen Mills Estate Limited & others..... .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. C. M. Korde i/by M/s.Vinod Mistry & Co.,
for the Petitioners.

Ms. Madhulata Kajale, Asstt. Govt. Pleader,
for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 628 OF 2002

M/s. Evergreen Industrial Estate
and Another..... .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. C. M. Korde i/by M/s.Vinod Mistry & Co.,
for the Petitioners.

Ms. Madhulata Kajale, Asstt. Govt. Pleader,
for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 665 OF 2001

M/s. Simplex Mills Company Ltd.,
and Another..... .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Shyam Diwan with Mr. S.H.Merchant i/by
M/s. M & M Legal Venture for the Petitioners.

Mr. S. K. Nair for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1016 OF 2001

Hindustan Petroleum Corporation
Ltd. & Anr..... .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. M.D.Siodia i/by M/s.Rustamji & Ginwala
for the Petitioners.

Ms. Madhulata Kajale, Asstt. Govt. Pleader,
for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1020 OF 2001

Malcolm F. A. Pereira and
Daphne M.T.Pereira... .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Wilfred Pereira i/by M/s.Wilfred Pereira
& Co., for the Petitioners.

Mr. S. K. Nair for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1094 OF 2001

LIC OF INDIA AND ANOTHER..... .. Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. V. Y. Sanglikar for the Petitioners.

Ms. Geeta Shastri, Asstt.Govt. Pleader,
for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 2164 OF 2001

M/s.Sumer Associates..... .. Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

None for the Petitioners.

Ms. M. Kajale, Asstt.Govt. Pleader,
for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 189 OF 2002

Mehdi Sadiq Shirazi..... .. Petitioner.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. V.P.Sawant for the Petitioner.

Mr. S. K. Nair for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1194 OF 2004

Jainam Constructions & Anr... .. Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Sanjay Kadam i/by M/s. Kadam & Co.,
for the Petitioners.

Mr. S. K. Nair for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1360 OF 2004

Tarabaug Aikyawardhak Co-op.
Housing Society Ltd.& Anr. .. Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Sanjay Kadam i/by M/s. Kadam & Co.,

for the Petitioners.

Mr. N.P. Pandit, Asstt. Govt. Pleader,
for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 1967 OF 1990

Silver Cascade Co-operative
Housing Society Ltd. .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. C.M.Korde with Mr. Milind Jadhav, Mr. J. S. Solomon and Mr. Manish S.Vora i/by M/s. Solomon & Co., for the Petitioners.

Mr. B. N. Shroff for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 710 OF 2001

Vrindavan Co-operative
Housing Society Ltd. .... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. C.M.Korde with Mr. Milind Jadhav, Mr. J. S. Solomon and Mr. Manish S.Vora i/by M/s. Solomon & Co., for the Petitioners.

Mr. S. K. Nair for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 839 OF 2001

Vijaya Yeshwant Shetty & Anr. .. Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. C.M.Korde with Mr. Milind Jadhav, Mr. J. S. Solomon and Mr. Manish S.Vora i/by M/s. Solomon & Co., for the Petitioners.

Ms. Madhulata Kajale, Asstt. Govt. Pleader, for the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 2829 OF 2003

Mount Mary Diamond Co-op. Housing Society Ltd. ... ... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Milind Jadhav with Mr. J. S. Solomon and Mr. Manish S.Vora i/by M/s. Solomon & Co., for the Petitioners.

Mr. S. K. Nair the Respondents.

-: ALONG WITH :-

WRIT PETITION NO. 712 OF 2001

Perseus Jamshed Treasuryvala and Others..... ... ... Petitioners.

Versus

The State of Maharashtra & Ors..... Respondents.

Mr. Darius Khambatta with Mr. J. S. Solomon and Mr. Manish S.Vora i/by M/s. Solomon & Co., for the Petitioners.

Mr. S. K. Nair the Respondents.

CORAM : S. RADHAKRISHNAN &

S. A. BOBDE, JJ.

DATED : 25TH AUGUST, 2004.

P.C.:

Heard the learned Senior Counsel and the learned Counsel appearing for the Petitioners as also the learned Counsel appearing for the Respondents and the learned Assistant Government Pleaders in the above matters.

2. The above matters were heard by us for some time. Thereafter, on our suggestion the learned Counsel Mr. Nair, for the Respondent State of Maharashtra, had personally taken up the matters with the Principal Secretary, Revenue and Forest Department by his letter dated 17th August, 2004. To the above letter, the learned Counsel appearing on behalf of the State of Maharashtra, Mr. Nair, states that he has received a communication dated 24th August, 2004 from the Under Secretary to the Government of Maharashtra, Revenue and Forest Department. He tenders the original copy of the same, which is taken on record and marked "X" for identification.

3. The learned Counsel Mr. Nair also makes it clear that the above communication dated 24th August, 2004 is in pursuance of the directions issued by the Principal Secretary to the Government of Maharashtra, Revenue and Forest Department. Mr. Garat, the Under Secretary to the Government of Maharashtra, Revenue

and Forest Department, who is personally present in Court, states that the contents in the said letter have been issued pursuant to the directions issued by the Principal Secretary, Revenue and Forest Department, himself, on behalf of State of Maharashtra.

4. By the said letter, the State of Maharashtra has very fairly taken a stand to withdraw the impugned Government Resolution No. LND 1085/134322/CR-184/J-2 dated 5th October, 1999 and also the respective demand notices issued by the concerned Collectorate in respect of renewal of leases, which are under challenge in the above Petitions. We make it clear that the valuation with regard to fixation of value of the property, shall be done by the State of Maharashtra in accordance with law as laid down by this Court and also by the Supreme Court of India and the relevant provisions of law. While fixing the value of the property, Respondent State shall also take into account and shall have due regard to the terms and conditions laid down in the respective Lease Deeds in the above cases.

5. As indicated in the above letter dated 24th August, 2004, the Respondents shall communicate to the Petitioners the proposed lease rent so also the basis

and the manner in which the amount has been computed, so as to enable the Petitioners to make a representation against the same. The concerned Collectorate should give hearing either in writing or in person as requested by the affected Lessee within a reasonable stipulated period. After affording an opportunity of hearing as aforesaid, the Collectorate shall fix the lease rent and make an appropriate demand.

6. In the event, the Petitioners are aggrieved thereby, the Petitioners are at liberty to challenge the same. It is made clear that all contentions including the contentions raised in these Petitions and the submissions of Respondents in these Petitions are expressly kept open.

7. The Respondent - State of Maharashtra is entitled to withdraw the amount of lease - rents already deposited in this Court with the Prothonotary and Senior Master in the concerned Petitions. However, the said amount shall not be appropriated by the State of Maharashtra and will keep the same in a separate account. It is made clear that all the monies, which have been either paid directly to the State of Maharashtra or which will be withdrawn by the State of Maharashtra pursuant to this Order, shall be kept with

them and not appropriated for a period of four weeks after the date of communication of the final order that may be passed by the concerned Collectorate to the Petitioners with regard to fixation of lease rent.

8. As far as Writ Petition No. 1967 of 1990 is concerned, in view of the above directions, the order dated 31st May, 1990 passed by the 2nd Respondent and also the order dated 30th November, 1992 passed by the Appellate Authority, namely, the Commissioner, Konkan Division, stand quashed and set aside. However, it is made clear that the Respondents are at liberty to issue a fresh show cause notice with regard to the same and decide the same after affording an opportunity of hearing as indicated above and pass an appropriate order and the Petitioners are entitled to challenge the same, if they are so aggrieved.

9. In the meanwhile, all the Petitioners shall continue to pay the lease rent to the State of Maharashtra as per the old rate.

10. In view of the above all the above Petitions stand disposed of and Rule is made absolute in the above terms.

11. Liberty to the parties to apply, in case of any

difficulty.

12. All authorities concerned to act on an ordinary copy of this order duly authenticated as true copy by the Associate of this Court.

Sd/-

(S. RADHAKRISHNAN,J.)

Sd/-

(**S. A. BOBDE, J.**)